suffers from an abuse of the Finality Rule, appearing on page 3 of the Westlaw slip law of the case. 7 U.S.C. Section 7001(a)(3).

If the FSA is to be allowed to get out of an eligibility determination, then the Petitioner should be allowed to get out of higher real estate valuations and higher federal estate taxes caused by the farm program.

**RECAPTURE OF LAND APPRECIATION**

**ONLY AS PROVIDED BY STATUTE**

In another parallel in a similar fact situation (the differences are not material to this analysis), the case *Davies v Johanes* (sp), 409 F.Supp.2d 1150

(Western D. Missouri January 11, 2006), the petitioner Larry D. Davies brought an action challenging the USDA attempt to recapture a portion of the appreciation in value of the farm, upon the expiration of a shared appreciation agreement (SAA).

The US District Court for the Western District of Missouri decided that the USDA could not go by the new regulations which would have allowed the USDA a much increased take from the farmer Davies, but had to go by the regulations in effect at the time of the enrollment in the crop program.

Since the FSA in the present case, with

Widtfeldt, does not have any right to appreciation, the government crop enrollment should either be upheld and the US District Court of Nebraska decision reversed and default judgment nullified and the case retried with directions to accept appellant's enrollment, and if any future FSA-USDA enrollment is not approved, to allow appellant land valuation to be reduced for state real estate tax purposes, to those values which would have been in effect absent the USDA-FSA farm program.

*Horn Farms, Inc. vs Veneman*, 319 F. Supp 2d 902 (May 20, 2004), is shown to be more and more deserving of approval nationwide, as urged in the

Petition for Certiorari herein, rather than to allow the USDA-FSA to knock off one farmer at a time in inconsistent jurisdictions where the FSA-USDA is still allowed t violate the "Finality Rule" of Clinger, supra, with impunity.

**CRIMINAL CASES CONTINUE TO EXACT PUNISHMENT FROM WRONGDOERS RATHER THAN TO BLAME VICTIM AS IN PRESENT CASE**

Inconsistent with this Court's decision of February 27, 2006 where this court wrongly refused the Widtfeldt Petition for Certiorari, which is the subject of this Petition for Rehearing,

the Supreme Court, in the recent case, *United States v Grubbs*, 2006 WL 693453, March 21, 2006, upheld an anticipatory search warrant, stating that the search warrant did not violate the fourth amendment, there was probable cause, and that the triggering condition for an anticipatory search warrant did not have to be set forth in the warrant.

In other words, when this Court is shown all the facts and the wrongdoing party, the Court makes the right decision, but when the Court can't see who made the electronic worms, the computer viruses, and the malicious ads which stymied Petitioner Widtfeldt's proper actions in the lower

court decisions, then the Court won't take the proper action.

The distinction seems to be, this Court is not willing to go to the abstraction of saying, somebody did something bad resulting in Petitioner Widtfeldt losing his day in court, instead the court can only make that decision in a case when the culpable party was present and that party's actions were identified.

The proper action of this court is to accept the abstract reasoning necessary, yes there are lots of electronic worms, viruses, and malicious ads, and yes the said electronic malware cannot be anticipated, and yes, if electronic malware

happens and prevents a day in court to a party, the parties should be allowed to have their day in court, and distinguish from **Grubbs, supra** that the person who actually made the malware, in the distinction, need not be present in court and be found guilty, particularly where the ads are often done by thousands of different electronic sources and the the persons causing the electronic malware may have serendipitously created an impenetrable electronic fog by their separate non - criminal efforts, but the court should decide that the deprived parties are still entitled to their day in court, rather than the court defaulting the electronic malware victim at the earliest possible

second and being glad to get rid of a case by any means whatever, which tends to impugn the impartiality of the court.

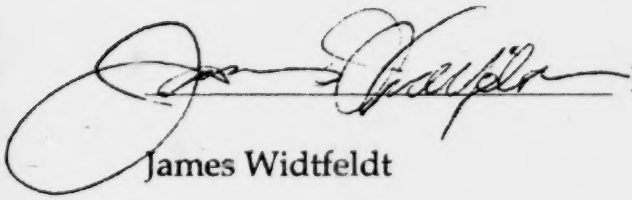
Although the lower court judge thought Petitioner Widtfeldt had made no effort to access the court records such as on Pacer, in fact Petitioner made lots of efforts but Petitioner's efforts were all stymied or consumed by malware, and the reasonable understanding that the court, having started a paper record, would continue a paper record to the end of the case.

The case **International Airport Centers vs Citrin**, 2006 WL 548995, decided March 8, 2006, in a civil action, decided that a violation of the

Computer Fraud and Abuse Act, 18 U.S.C. section 1030, had occurred even without a "transmission" as found by the lower court appealed from. Citrin had arguably damaged his former employer's computers by a program to delete files, after Citrin had been terminated from work. Once again, the Court does OK while faced with an actual fact situation by which computer damage is caused by an identified person. However, in the present case, absence of a specific culprit caused the court's perceptory abilities to falter, and no day in court could be had because of the refusal of Petitioner's Petition for Certiorari.

## CONCLUSION

Petitioner respectfully requests that this court determine that the trial court's default judgment due to Petitioner's computer woes is not right, and allow Petitioner Widtfeldt his day in court.



March 23, 2006

James Widtfeldt

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# APPENDICES -- ADDENDUM

I, James Widtfeldt, do swear or declare that on this date, March 24, 2006, as required by Supreme Court Rule 29, I have served the enclosed Rule 12.3 and Rule 44 notice that the case (previously docketed January 5, 2006, with previously certified notice of January 14, 2006, with three copies of the Petition for Writ of Certiorari) and the undersigned certifies a true copy of the above and foregoing Petition for Rehearing in the US Supreme Court, was served on the following on **March 24, 2006** by placing in the regular or certified US mail, postage prepaid, addressed to the following:

**Solicitor General of the United States,**

**Department of Justice, Washington, D.C., 20530**

**Robert L. Homan**, US atty, 1620 Dodge Street #1400, Omaha, Nebraska 68102

**Richard Kilmurry**, 47798 on 888 Road, Atkinson, Nebraska 68713

**Bonny Kilmurry**, 47798 on 888 Road, Atkinson, Nebraska 68713

**Hilger Brothers Partnership**, # 1141 on 38 Road, Lot 1, David City, Nebraska 68632

**Gary A. Burival** 49250 on 876th Road, O'Neill, Nebraska 68763

**Joyce A. Burival** 49250 on 876th Road, O'Neill, Nebraska 68763

**George A. Moyer**, 114 West 3rd Street, PO Box 510, Madison, Nebraska 68748-0510

**Jon Bruning**, Neb Att'y Gen'l, 2115 State Capitol,

PO Box 98920, Lincoln, NE 68509-8920

The originals to the US Supreme Court were

mailed by certified US mail March 24, 2006 to:

**United States Supreme Court**, 1 First Street, N.E.,

Washington, DC 20543

3-23-06

James Widtfeldt

I, James Widtfeldt, do swear or declare that on this date, March 23, 2006, as required by Supreme Court Rule 29, Rule 12.3 and Rule 44 that the case (previously docketed January 5, 2006) Petition for Rehearing in the US Supreme Court, was **certified on March 23, 2006** as not being filed for delay, but rather because

A) The chronology of events gave the appearance the FSA may have wrongly approved payments to Petitioner to induce Petitioner to approve a higher, now erroneous Federal Estate Tax from Petitioner's father's estate, and then, after lengthy procedures Estate Tax Audit completed on or about March 2002, reneged on the FSA-USDA payments.

B) Petitioner also has noticed that many FSA-USDA farm support payments are challenged in a manner to politically embarrass prominent persons, including at least one of Petitioner's former clients, and Petitioner believes that situation and circumstances exists and applies in this case, as Petitioner was prominent in supporting the Low Level Radioactive Waste Siting in Boyd County, Nebraska, upon which Nebraska defaulted and suffered a judgment against Nebraska in a judgment handed down about the time the FSA began its forfeiture proceedings.

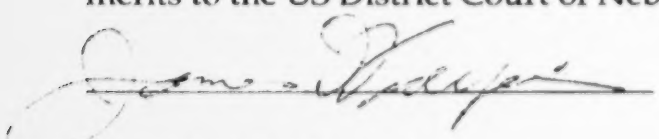
C) Additional "coincidental" challenges to petitioner occurring about the same time, and

raising questions about the impartiality of this proceeding, included the actions of the City of O'Neill refusing to pick up garbage and later filing nuisance charges against appellant at a large former motel in O'Neill which was being rented as apartments to Hispanics, and a long series of grievances filed by local lawyers and judges in O'Neill against appellant, beginning about 2001. Petitioner hauled tremendous amounts of garbage personally for several years and has now hired others to haul garbage, due to the City of O'Neill refusal.

D) Additionally, Petitioner was faced with large numbers of virus, worm and electronic malware ads, on a scale not previously

contemplated, for the first time at the time of this case in 2004, and Petitioner was in Petitioner's first case in Federal Court with electronic filing, and did not expect the electronic problems that ensued. Petitioner's internet service provider was local (elkhorn.net), and that ISP as well as others, now have much improved spam and malware vigilance.

For this reason, circumstances show this Petition for Rehearing is not for delay, and should be approved, returned to the lower court to be proved, by returning this case for a decision on the merits to the US District Court of Nebraska.



James Widtfeldt

A3 Order subject of Petition for ReHearing

Order of the United States Supreme Court entered February 27, 2006 in Case No. 05-854, James Widtfeldt v United States, et al.